

TIM Kaine
VIRGINIA

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
FOREIGN RELATIONS

COMMITTEE ON
THE BUDGET

United States Senate
WASHINGTON, DC 20510-4607

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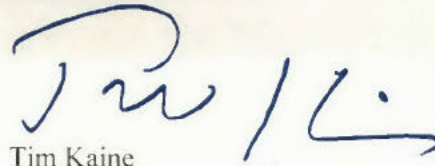
June 19, 2017

Associate Administrator
Environmental Protection Agency
1200 Pennsylvania Ave NW Rm 3426WJC
Washington, DC 20460-0001

Dear Friend:

I have recently been contacted by Mr. Jo Janka of Newpoer News, Virginia. Attached is a copy of that correspondence. I would appreciate it if you could look into this matter and provide the constituent with the appropriate response as well as our office. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'TK / L.', is written above the printed name 'Tim Kaine'.

Tim Kaine

LIEBHERR

Liebherr Mining Equipment Newport News Co.

The Hon. Tim Kaine
231 Russell Senate Office Building
Washington DC 20510

Liebherr Mining Equipment Newport News Co.

4100 Chestnut Avenue
Newport News, VA, 23607, USA
Phone: + 1 (757) 245 5251
Fax: + 1 (757) 928 8755

Ref.: Endanger Virginia Jobs

June 1, 2017

Dear Sir,

We are a Virginia manufacturer of large off-road mining trucks and have been employing Virginians since 1970. We are proud to be one of the top exporters from Virginia. We seek your urgent and valued assistance in resolving a situation which has created a potentially ruinous financial hardship with a resulting endangerment to jobs at our operation here in Virginia.

BACKGROUND:

Our gigantic mining trucks use large 20 cylinder industrial diesel engines which we purchase from MTU. We purchased four (4) of these engines back in 2012 when the Global Mining Market was strong and these engines were certified to an Environmental Protection Agency (EPA) Tier 1 certification level at that time. The trucks for these particular engines were destined for an export sale which did not materialize (due to the total collapse of the world mining market at that time) and the costly engines have been in our inventory since.

We now have an opportunity to build and export trucks with these specific engines to Canada which would be critical to a multi-million dollar export transaction. We can provide these engines to the Canadian truck sale only if we use "Flexibility" rules – requiring that these engines have an EPA certificate which allows the engines to be calibrated from a non-certified rating to a cleaner, Tier 2 certified rating. The particular 20V4000C23 engine in question is unique in that it is possible to change the calibration in the engine from the "Fuel Consumption Optimized" configuration with the re-export labels to an "EPA Tier 2 compliant" configuration with a simple calibration and label change. This puts the engine in a more environmentally-friendly configuration. There are no hardware changes required to make this happen the engines would then have their labels replaced with "Flexibility" Labels. Only with this re-certification and new labelling can we be allowed to export these particular engines in our trucks to Canada. We have arranged for the manufacturer to calibrate the engines as needed but need to have EPA authority to do so.

LIEBHERR

We recently petitioned the EPA to allow these engines to be re-calibrated and labelled appropriately so that we can make this critical export sale. All re-calibration by the original engine manufacturer will follow all regulations. The EPA has essentially dismissed our petition in this matter.

The Engine Serial Numbers affected are 528102602, 528102604, 528102609 and 528102617.

FINANCIAL IMPACT:

The current export sale of these mining trucks is contingent on the delivery of ten (10) trucks, of which four (4) would rely on having the re-calibrated (converted) engines. There is extreme urgency in this matter as there is no possible way that we can obtain four (4) replacement engines in time to meet the delivery agreement – so, without the re-calibration of these four (4) engines – our complete export order collapses. Without such sale (and use of the re-calibrated engines), our company would suffer a catastrophic \$60 million loss in lost sales revenue due to the very high value of the mining trucks. This would jeopardize jobs at our facility in Newport News, Virginia and the even the future of our ability to manufacture in Virginia, create jobs and be a net exporter. If we do not have the EPA approval of the re-certification very quickly, our export sale is lost forever with devastating financial loss to our firm.

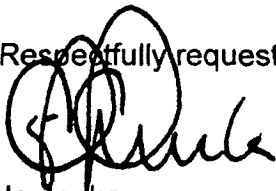
AID SOUGHT:

We respectfully entreat you to look into this urgent situation and see if you can engage the EPA to re-address this matter in light of the calamitous financial loss which will definitely endanger Virginia manufacturing jobs.

If you have any questions, please advise. We can provide greater detail as to our engagement with the EPA officials.

We look forward to your assistance in this dire matter and thank you in advance for any assistance you may give.

Respectfully requested,



Jo Janka
President

Liebherr Mining & Construction Newport News Co.

Janka Joachim (MIN-LME)

Subject: FW: Diesel Fueled Equipment (Over 560 kW) Delivery In 2018

Jo Janka

Liebherr Mining Equipment Newport News Co.

Tel. +1 (757) 928 2221

Mobile +1 (757) 342 7801

From: Gumbs, Jason [<mailto:Gumbs.Jason@epa.gov>]
Sent: Thursday, May 25, 2017 12:43 PM
To: Bennett Mark, EIIM MTU America Inc.
Cc: Duncan, Allen; Healy, Stephen; Stout, Alan
Subject: RE: Diesel Fueled Equipment (Over 560 kW) Delivery In 2018

Mark,

I have already articulated my position on this issue. I'll include the respective individuals in my management chain. I can always be overruled. My current immediate supervisor is Allen Duncan.

From: Bennett Mark, EIIM MTU America Inc. [<mailto:Mark.Bennett@mtu-online.com>]
Sent: Thursday, May 25, 2017 12:34 PM
To: Gumbs, Jason <Gumbs.Jason@epa.gov>
Subject: FW: Diesel Fueled Equipment (Over 560 kW) Delivery In 2018

Hello Mr. Gumbs,

I have not heard from you regarding the note that I sent to you, but I have heard from Canada and they will allow the engines to be imported with conditions outlined below. I am appealing to you one more time because our internal processes are simplified when we have approval from the EPA for emission upgrades.

Please give me the courtesy of a reply, and I will proceed according to your instructions. Please feel free to call me if you would like to discuss this topic.

Thank you again for your consideration.

Kind regards,

Mark

Mark Bennett
Sr. Manager, Global Mining Accounts
MTU America Inc.

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